

# SENATE BILL No. 99

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-33-8-3.2.

**Synopsis:** Alcohol abuse and bail. Permits a court to require a defendant to receive deterrent treatment for alcohol abuse as a condition of bail when the defendant's use of alcohol contributed to the offense and the defendant's continued use of alcohol may pose a risk of physical danger.

**Effective:** July 1, 2003.

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January 7, 2003, read first time and referred to Committee on Judiciary.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## SENATE BILL No. 99

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 35-33-8-3.2, AS AMENDED BY P.L.1-2001,  
2 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2003]: Sec. 3.2. (a) A court may admit a defendant to bail and  
4 impose any of the following conditions to assure the defendant's  
5 appearance at any stage of the legal proceedings, **to deter the**  
6 **defendant's use of alcohol when it appears that the defendant's use**  
7 **of alcohol contributed to the offense and the defendant's use of**  
8 **alcohol may pose a risk of physical danger to the defendant or**  
9 **another person**, or, upon a showing of clear and convincing evidence  
10 that the defendant poses a risk of physical danger to another person or  
11 the community, to assure the public's physical safety:  
12 (1) Require the defendant to:  
13 (A) execute a bail bond with sufficient solvent sureties;  
14 (B) deposit cash or securities in an amount equal to the bail;  
15 (C) execute a bond secured by real estate in the county, where  
16 thirty-three hundredths (0.33) of the true tax value less  
17 encumbrances is at least equal to the amount of the bail;



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- 1 (D) post a real estate bond.
- 2 (2) Require the defendant to execute a bail bond by depositing
- 3 cash or securities with the clerk of the court in an amount not less
- 4 than ten percent (10%) of the bail. If the defendant is convicted,
- 5 the court may retain all or a part of the cash or securities to pay
- 6 fines, costs, fees, and restitution, if ordered by the court. A portion
- 7 of the deposit, not to exceed ten percent (10%) of the monetary
- 8 value of the deposit or fifty dollars (\$50), whichever is the lesser
- 9 amount, may be retained as an administrative fee. The clerk shall
- 10 also retain from the deposit under this subdivision the following:
- 11 (A) Fines, costs, fees, and restitution as ordered by the court.
- 12 (B) Publicly paid costs of representation that shall be disposed
- 13 of in accordance with subsection (b).
- 14 (C) In the event of the posting of a real estate bond, the bond
- 15 shall be used only to insure the presence of the defendant at
- 16 any stage of the legal proceedings, but shall not be foreclosed
- 17 for the payment of fines, costs, fees, or restitution.
- 18 The individual posting bail for the defendant or the defendant
- 19 admitted to bail under this subdivision must be notified by the
- 20 sheriff, court, or clerk that the defendant's deposit may be
- 21 forfeited under section 7 of this chapter or retained under
- 22 subsection (b).
- 23 (3) Impose reasonable restrictions on the activities, movements,
- 24 associations, and residence of the defendant during the period of
- 25 release.
- 26 (4) Require the defendant to refrain from any direct or indirect
- 27 contact with an individual.
- 28 (5) Place the defendant under the reasonable supervision of a
- 29 probation officer or other appropriate public official.
- 30 (6) Release the defendant into the care of a qualified person or
- 31 organization responsible for supervising the defendant and
- 32 assisting the defendant in appearing in court. The supervisor shall
- 33 maintain reasonable contact with the defendant in order to assist
- 34 the defendant in making arrangements to appear in court and,
- 35 where appropriate, shall accompany the defendant to court. The
- 36 supervisor need not be financially responsible for the defendant.
- 37 (7) Release the defendant on personal recognizance unless:
- 38 (A) the state presents evidence relevant to a risk by the
- 39 defendant:
- 40 (i) of nonappearance; or
- 41 (ii) to the physical safety of the public; and
- 42 (B) the court finds by a preponderance of the evidence that the

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1 risk exists.

2 **(8) Require the defendant to report for supervision in an**  
 3 **alcohol abuse deterrent program established under IC 9-30-9**  
 4 **within twenty-four (24) hours to comply with the**  
 5 **requirements of the alcohol abuse deterrent program,**  
 6 **including taking a medical examination, submitting to a blood**  
 7 **test, or using disulfiram or a similar substance that has been**  
 8 **approved under IC 9-30-9 as an effective chemical deterrent**  
 9 **to the use of alcohol.**

10 **(9) Impose any other reasonable restrictions designed to assure**  
 11 **the defendant's presence in court or the physical safety of another**  
 12 **person or the community.**

13 (b) Within thirty (30) days after disposition of the charges against  
 14 the defendant, the court that admitted the defendant to bail shall order  
 15 the clerk to remit the amount of the deposit remaining under subsection  
 16 (a)(2) to the defendant. The portion of the deposit that is not remitted  
 17 to the defendant shall be deposited by the clerk in the supplemental  
 18 public defender services fund established under IC 33-9-11.5.

19 (c) For purposes of subsection (b), "disposition" occurs when the  
 20 indictment or information is dismissed, or the defendant is acquitted or  
 21 convicted of the charges.

22 (d) With the approval of the clerk of the court, the county sheriff  
 23 may collect the bail posted under this section. The county sheriff shall  
 24 remit the bail to the clerk of the court by the following business day.

25 (e) When a court imposes a condition of bail described in subsection  
 26 (a)(4):

- 27 (1) the clerk of the court shall comply with IC 5-2-9; and
- 28 (2) the prosecuting attorney shall file a confidential form
- 29 prescribed or approved by the division of state court
- 30 administration with the clerk.

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